



Attorney's Docket No. 035718/237005 (5718-118)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Abad *et al.* Confirmation No.: 5409
Appl. No.: 10/032,717 Group Art Unit: 1638
Filed: October 23, 2001 Examiner: A. Kubelik
For: GENES ENCODING NOVEL PROTEINS WITH PESTICIDAL ACTIVITY
AGAINST COLEOPTERANS

Commissioner for Patents
Washington, DC 20231

Sir:

Transmitted herewith is an AMENDMENT in the above-identified patent application.

- ☐ Applicant claims small entity status. See 37 C.F.R. § 1.27.
☐ No additional fee is required.

The fee has been calculated as shown below:

(COL. 1)		(COL. 2)	(COL. 3)	SMALL ENTITY		OTHER THAN A SMALL ENTITY	
CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDIT. FEE	OR RATE	ADDIT. FEE
TOTAL	* 54	** 38	= 16	X9=	\$	X18=	\$ 288
INDEP	* 16	*** 13	= 3	X42=	\$	X84=	\$ 252
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				+140=	\$	+280=	\$
				TOTAL ADD FEE \$		OR TOTAL	\$ 540

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box in Col. 1 of a prior Amendment or the number of claims originally filed.

RECEIVED
JAN 02 2003
TECH CENTER 1600/2900

In re: Abad *et al.*

Appl. No.: 10/032,717

Filed: October 23, 2001

Atty. Dock. No. 035718/237005 (5718-118)

Page 2

- ☐ Please charge my Deposit Account No. 16-0605 in the amount of \$.
- ☒ A check in the amount \$540 to cover the additional fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any deficiency in payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 16-0605.
- ☒ Any additional filing fees required under 37 C.F.R. § 1.16 for the presentation of extra claims.
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17.

Respectfully submitted,

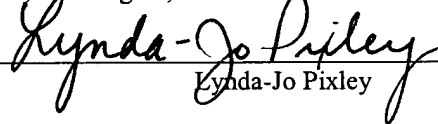


Leigh W. Thorne
Registration No. 47,992
Attorney/Agent of Record

CUSTOMER NO. 29122
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

"Express Mail" mailing label number EL 868645553 US
Date of Deposit December 23, 2002

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner For Patents, Washington, DC 20231.


Lynda-Jo Pixley



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Abad <i>et al.</i>	Confirmation No.:	5409
Appl No.:	10/032,717	Group Art Unit:	1638
Filed:	October 23, 2001	Examiner:	A. Kubelik
For:	GENES ENCODING NOVEL PROTEINS WITH PESTICIDAL ACTIVITY AGAINST COLEOPTERANS		

Commissioner for Patents
Washington, DC 20231

RECEIVED
JAN 02 2003
TECH CENTER 1600/2900

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated December 4, 2002, in which the Examiner has required restriction between Group I, namely Claims 1-3, 9-12, 17-28, 31-35 and 37, Group II, namely Claims 4-8 and 29-30, and Group III, namely Claims 13-16 and 36. Applicants hereby provisionally elect with traverse to prosecute the claims of Group I (Claims 1-3, 9-12, 17-28, 31-35 and 37). The Examiner also required selection of a nucleotide sequence for Group I, and Applicants hereby provisionally elect SEQ ID NO:1 with traverse. Applicants expressly reserve the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

Applicants note that this Response is being filed with a Preliminary Amendment.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper.

In re: Abad *et al.*

Appl No.: 10/032,717

Filed: October 23, 2001

Page 2

However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

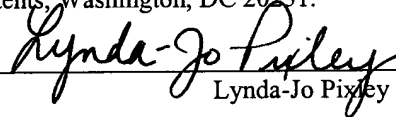


Leigh W. Thorne
Registration No. 47,992

CUSTOMER NO. 29122
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

"Express Mail" mailing label number EL 868645553 US
Date of Deposit December 23, 2002

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner For Patents, Washington, DC 20231.


Lynda-Jo Pixley

RECEIVED
JAN 02 2003
TECH CENTER 1600/2900

9
Election 4
Amendment B

Attorney's Docket No. 035718/237005 (5718-118)

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Abad *et al.* Confirmation No.: 5409
Appl. No.: 10/032,717 Group Art Unit: 1638
Filed: October 23, 2001 Examiner: A. Kubelik
For: GENES ENCODING NOVEL PROTEINS WITH PESTICIDAL ACTIVITY
AGAINST COLEOPTERANS

Commissioner for Patents
Washington, DC 20231

RECEIVED
JAN 02 2003
TECH CENTER 1600/2900

PRELIMINARY AMENDMENT
37 CFR § 1.115

Dear Sir:

Please amend the above-identified application as follows:

Please cancel claims ~~4, 5, 6, 7, 8, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37~~ without prejudice or disclaimer. These claims have been withdrawn from consideration by the Examiner pursuant to a Restriction Requirement in response to which Applicants have provisionally elected with traverse the claims of Group I, namely claims 1-3, 9-12, 17-28, 31-35 and 37, and SEQ ID NO:1 (please see Response to Restriction Requirement filed herewith). Applicants hereby expressly reserve the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the non-elected claims.

In The Claims:

Please amend the claims as follows:

twice amended
B1 1. An isolated nucleic acid comprising a nucleotide sequence having at least 90% sequence identity to the nucleotide sequence set forth in SEQ ID NO:1.

12/30/2002 AAD0F01 00000042 10032717

01 FC:1201
02 FC:1202

252.00 OP
288.00 OP